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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,866	12/10/2003	Kyle Brandon Jones	3009DD-60547	8318
38441	7590	04/11/2006		
LAW OFFICES OF JAMES E. WALTON, PLLC 1169 N. BURLESON BLVD. SUITE 107-328 BURLESON, TX 76028			EXAMINER CASTELLANO, STEPHEN J	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

E

Office Action Summary	Application No. 10/732,866	Applicant(s) JONES, KYLE BRANDON	
	Examiner Stephen J. Castellano	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-27 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1-26-06</u> . | 6) <input type="checkbox"/> Other: ____. |

Claims 1-6 have been canceled. Claims 7-27 are pending.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 18 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Effertz and Henderson.

Claims 7, 8, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Waggoner.

Waggoner discloses an apparatus capable of insulating a beverage container comprising a first portion and a second portion, the first portion (sheet member 6) defining a cavity when rolled, the first portion having first and second axially extending edges aligned with the longitudinal axis of the sheet. The first portion includes a means for urging the edges toward one another as cord 12 and openings 10. The second portion (disk 13 and tongue 15) is located at a base end of the sheet 6, the second portion defining a base (disk 13) and a tongue (tongue 15), the tongue is disposed within the cavity of the first portion adjacent the first and second edges of the first portion.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 9-12, 20 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waggoner in view of Rankin, Sr. (Rankin).

Re claim 9, Waggoner discloses the invention except for the connection between first and second portions being detachable or removable. Rankin teaches an insulating cover for a keg with a first sidewall-enclosing portion and a second base portion with a removable connection of tabs 38 and corresponding male and female snaps. It would have been obvious to substitute the connection of Rankin in place of Waggoner's permanent connection to provide easier storage of knockdown components and easier assembly such that heavy beverage containers (kegs) can be more easily placed on a base first before the sidewalls are connected rather than lifting the heavy container over a top open end of a device with the base connected to erect sidewalls.

Re claim 20, the tongue is an extension of the strip and these two elements are one piece. Therefore, the tongue 15 of Waggoner is considered to have two portions connected as one piece, a strip proximal to the base and a tongue distal from the base.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waggoner in view of Rankin as applied to claim 12 above, and further in view of Bergman et al. (Bergman).

The combination discloses the invention except for the slot in the sidewall. Bergman teaches a slot in the sidewall (see Fig. 8). It would have been obvious to modify the sidewall to have a slot to provide passage for a flexible tab allowing easier assembly and proper alignment of parts.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waggoner in view of Allen et al. (Allen).

Waggoner discloses the invention except for the pull tab. Allen teaches a pull tab on the distal end of a tongue. It would have been obvious to add the pull tab to enhance the grip on the tongue.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Waggoner in view of Duncan et al. (Duncan).

Waggoner discloses the invention except for the eyelets. Duncan teaches eyelets. It would have been obvious to add the eyelets to reinforce the cord openings of Waggoner to prevent the sheet material from tearing.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waggoner in view of Duncan as applied to claim 15 above, and further in view of Liu.

Re claim 16, the combination discloses the invention except for the pull clamp. Liu teaches a pull clamp 20. It would have been obvious to add a pull clamp to tighten the cord so that the cord doesn't become loose and cause the beverage to fall or move within the cover.

Re claim 17, Official notice is taken of elastic cord being well known. It would have been obvious to modify the cord to be elastic to provide the additional closing force of elasticity further holding the cover closed even when tied or clamped.

Claims 21, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waggoner in view of Rankin as applied to claim 20 above, and further in view of Duncan, Liu and Allen.

Re claims 21 and 22, the combination discloses the invention except for the eyelets. Duncan teaches eyelets. It would have been obvious to add the eyelets to reinforce the cord openings of Waggoner to prevent the sheet material from tearing.

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Re claim 22, the combination discloses the invention except for the pull clamp. Liu teaches a pull clamp 20. It would have been obvious to add a pull clamp to tighten the cord so that the cord doesn't become loose and cause the beverage to fall or move within the cover.

Re claim 23, the combination discloses the invention except for the pull tab. Allen teaches a pull tab on the distal end of a tongue. It would have been obvious to add the pull tab to enhance the grip on the tongue.

Claim 27 is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on M-Th 6:30-5.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc